

# **EXHIBIT 3**

# COVINGTON

BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG  
LONDON LOS ANGELES NEW YORK PALO ALTO  
SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

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## Via Electronic Mail

March 27, 2020

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## **Re: Request for Complete Custodial and Departmental File Production Dates for Priority Deponents**

Dear Counsel:

Thank you for your recent updates regarding the status of your productions of custodial files. This letter seeks some additional information regarding those productions, as well as about productions of departmental files, for certain priority deponents of Defendants. We will need complete productions of both custodial and departmental files to be ready for depositions.

We fully acknowledge that the ongoing COVID-19 pandemic will make it difficult to move forward with depositions in the near future. However, we still face a compressed case schedule that the Court provided in the March 5, 2020 status conference, with written document discovery closing on April 30, 2020 and fact discovery closing on June 15, 2020. In an effort to move the process forward efficiently, we set forth below certain priority deponents and request additional information on document productions relevant to them.

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**Cabell County**

1. Charles "Chuck" Zerkle, Jr. – Sheriff, Cabell County Sheriff's Office
2. Doug Adams – Chief Deputy, Cabell County Sheriff's Office
3. Gordon Merry III – Director, Cabell County Emergency Medical Services

Cabell County's March 21, 2020 letter states that the productions of custodial files for Mr. Zerkle, Mr. Adams, and Mr. Merry are partially complete. Please let us know when these custodial files will be produced in their entirety. Also, we have received some departmental files from the Sheriff's Office and from Cabell County EMS, but please let us know when you will complete production of departmental files relating to Mr. Zerkle and Mr. Adams's activities within the Cabell County Sheriff's Office and Mr. Merry's duties within Cabell County EMS.

4. Tom McComas – Former Sheriff, Cabell County Sheriff's Office
5. Kim Wolfe – Former Sheriff, Cabell County Sheriff's Office; Former Mayor, Huntington

According to Cabell County's March 21, 2020 letter, it has been unable to locate custodial files for former Sheriffs Tom McComas and Kim Wolfe. The letter does indicate, however, that custodial files are available for the current sheriff, Mr. Zerkle. Please explain the reason for this discrepancy, such as whether sheriffs before Mr. Zerkle did not maintain documents or there has been a change in how files are kept by the Sheriff's Office. Please also explain how Cabell County searched for Mr. McComas's and Mr. Wolfe's custodial files, and whether there is another party that might have more information about where their files can be found. Finally, as noted above, we have received some departmental files from the Sheriff's Office, but please let us know when you will complete production of departmental files relating to Mr. McComas's and Mr. Wolfe's activities within the Sheriff's Office.

6. Doug Ferguson – Former Chief Deputy, Cabell County Sheriff's Office

The Cabell County Commission's March 21, 2020 letter states that the production of Mr. Ferguson's custodial file is "substantially complete." As of this writing, however, only 21 documents have been produced from his custodial files, comprising newsletters and other immaterial correspondence.<sup>1</sup> Please take meaningful steps to correctly identify, collect, and produce *all* relevant materials in Mr. Ferguson's custodial file or explain in detail why no other custodial materials can be produced.

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<sup>1</sup> Mr. Ferguson's 21 custodial files can be found in Volume 4 of the Cabell County Sheriff's production issued on March 9, 2020 (CCWVPD\_0001875 - CCWVPD\_0001960).

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Please also let us know when to expect supplemental productions of Mr. Ferguson's custodial file and when his custodial file will be produced in its entirety.<sup>2</sup> Finally, although we have received some departmental files from the Sheriff's Office, please let us know when you will complete production of departmental files relating to Mr. Ferguson's activities within the Sheriff's Office.

**7. Nancy Cartmill – Cabell County Commissioner**

The Cabell County Commission's March 21, 2020 letter states that the production of Ms. Cartmill's custodial file is "substantially complete." Ms. Cartmill has served as a Cabell County Commissioner from 2006 to the present, but as of this writing, only 253 documents have been produced from her custodial files, comprising newsletters and other immaterial correspondence.<sup>3</sup> Please take meaningful steps to correctly identify, collect, and produce *all* relevant materials in Ms. Cartmill's custodial file or explain in detail why no other custodial materials can be produced. Please also let us know when to expect supplemental productions of Ms. Cartmill's custodial file and when her custodial file will be produced in its entirety. Finally, please let us know when you will complete production of departmental files relating to the Cabell County Commission.

**8. Bob Bailey – Former Cabell County Commissioner**

The Cabell County Commission's March 21, 2020 letter states that the production of Mr. Bailey's custodial file is "substantially complete." Mr. Bailey served as a Cabell County Commissioner from 1994 to 2008, but as of this writing, only 582 documents have been produced from his custodial files, comprising newsletters and other immaterial correspondence.<sup>4</sup> Please take meaningful steps to correctly identify, collect, and produce *all* relevant materials in Mr. Bailey's custodial file or explain in detail why no other custodial materials can be produced. Please also let us know when to expect supplemental productions of Mr. Bailey's custodial file and when his

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<sup>2</sup> Certain employees of the Cabell County Prosecuting Attorney's Office are also priority deponents of Defendants, but we understand from Cabell County's correspondence that motion practice will be required before documents from that office will be produced.

<sup>3</sup> Ms. Cartmill's custodial files can be found at CCCOMM\_0001214 - CCCOMM\_0001374; CCCOMM\_0025290 - CCCOMM\_0025547; CCCOMM\_0030710 - CCCOMM\_0031053; and CCCOMM\_0037598 - CCCOMM\_0037877.

<sup>4</sup> Mr. Bailey's custodial files can be found at CCCOMM\_0001180 - CCCOMM\_0001211; CCCOMM\_0005456 - CCCOMM\_0006672; CCCOMM\_0022496 - CCCOMM\_0022682; CCCOMM\_0024934 - CCCOMM\_0025282; CCCOMM\_0030622 - CCCOMM\_0030707; CCCOMM\_0037278 - CCCOMM\_0037593; and CCCOMM\_0046939 - CCCOMM\_0046964.

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custodial file will be produced in its entirety. Finally, please let us know when you will complete production of departmental files relating to the Cabell County Commission.

**City of Huntington**

1. Hank Dial – Chief, Huntington Police Department
2. Rocky Johnson – Captain, Huntington Police Department
3. Paul Hunter – Sergeant, Huntington Police Department; Drug and Violent Crimes Task Force

Huntington's March 23, 2020 letter states that the productions of custodial files for Mr. Dial, Mr. Johnson, and Mr. Hunter are partially complete and will be completed by the end of the week. In addition to completing their custodial files, we also expect Plaintiffs to produce relevant departmental files relating to the activities of Mr. Dial, Mr. Johnson, and Mr. Hunter within the Huntington Police Department and, in Mr. Hunter's case, the Huntington Drug and Violent Crimes Task Force.

4. Skip Holbrook – Former Chief, Huntington Police Department

According to Huntington's March 23, 2020 letter, the production of Mr. Holbrook's custodial file is substantially complete. As a senior local law enforcement official, there are likely departmental files, including emails and other materials, relating to Mr. Holbrook's activities at the Huntington Police Department. To that end, in Mr. Holbrook's custodial file or explain in detail why no other custodial materials can be produced. While we have received some departmental files from the Huntington Police Department, please take meaningful steps to identify, collect, and provide materials concerning Mr. Holbrook and let us know when you will complete production of them.

5. Jan Rader – Chief, Huntington Fire Department
6. Ray Canafax – Deputy Chief, Huntington Fire Department

The productions of Ms. Rader and Mr. Canafax's custodial files are listed as "substantially complete" in Huntington's March 23, 2020 letter. Given Ms. Rader's and Mr. Canafax's extensive careers and their role as senior local government officials, there are likely to be departmental files, including emails and other materials, relating to their activities within the Huntington Fire Department. To date, Defendants have not received any departmental files from the Huntington Fire Department. We ask that Plaintiffs make every effort to search for, identify, and provide departmental files relating to the duties of Ms. Rader and Mr. Canafax, and let us know when you will produce them.

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**7. Carl Eastham – Former Chief, Huntington Fire Department**

Huntington's March 23, 2020 letter states, without explanation, that it was "unable to locate" a custodial file for Mr. Eastham, a former chief of the Huntington Fire Department. However, a custodial file is available for Ms. Rader, the current Chief of the Huntington Fire Department. Please explain this discrepancy, including whether chiefs before Ms. Rader did not maintain documents or if there have been changes to how files are kept at the Fire Department. Please also explain how the Huntington searched for Mr. Eastham's custodial file and whether another party may have information about where his files can be found. Finally, please let us know when you will complete production of departmental files relating to Mr. Eastham's activities at the Huntington Fire Department.

**9. Steve Williams – Mayor, Huntington**

Huntington's March 23, 2020 letter states that the production of custodial files for Mr. Williams is partially complete and will be completed by the end of the week. In addition to completing his custodial files, we also expect Plaintiffs to produce relevant departmental files related to Mr. Williams' activities within the Mayor's Office.

**10. Kim Wolfe – Former Sheriff, Cabell County Sheriff's Office; Former Mayor, Huntington**

In addition to his role as a former Cabell County Sheriff, Mr. Wolfe is the former Mayor of Huntington and an agreed-upon Huntington custodian. According to Huntington's March 23, 2020 letter, Mr. Wolfe's Huntington custodial file is substantially complete, but, as of this writing, only 4 documents have been produced from his Huntington custodial file.<sup>5</sup> Please take meaningful steps to correctly identify, collect, and produce *all* relevant materials in Mr. Wolfe's custodial file or explain in detail why no other custodial materials can be produced. Please also let us know when to expect supplemental productions of Mr. Wolfe custodial file and when his custodial file will be produced in its entirety. Finally, please let us know when you will complete production of departmental files relating to Mr. Wolfe's activities within the Mayor's Office.

**11. Deron Runyon – Former Huntington Finance Director**

Huntington's March 23, 2020 letter states that the production of custodial files for Mr. Runyon is partially complete and will be completed by the end of the week. In addition to completing his custodial files, we also expect Plaintiffs to produce

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<sup>5</sup> Mr. Wolfe's custodial files can be found at HUNT\_00639181 - HUNT\_00639199.

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relevant departmental files related to Mr. Runyon's activities within the Finance Division. Please let us know when you will complete production of departmental files relating to Mr. Runyon's activities within the Finance Division.

**12. Pamela Chandler – Former Huntington Finance Director**

The productions of Ms. Chandler's custodial files are listed as "substantially complete" in Huntington's March 23, 2020 letter. As with Mr. Deron Runyon, in addition to completing Ms. Chandler's custodial files, we also expect Plaintiffs to produce relevant departmental files related to Ms. Chandler's activities within the Finance Division. Please let us know when you will complete this production.

**13. Darla Bentley – Former Huntington Budget Director**

The productions of Ms. Bentley's custodial files are listed as "substantially complete" in Huntington's March 23, 2020 letter. In addition to completing Ms. Darla Bentley's custodial files, we also expect Plaintiffs to produce relevant departmental files related to Ms. Chandler's activities. Please let us know when you will complete this production.

Given the pressing discovery deadlines, we would appreciate and look forward to your prompt response.

Sincerely,

*/s/ Laura Flahive Wu*

Laura Flahive Wu